

Date of Decision: 20.11.1995

FOR APPROVAL AND SIGNATURE

THE HON'BLE MR. JUSTICE N N MATHUR

1. Whether Reporters of local papers may be allowed to the judgment?
2. To be referred to the Reporter or not?
3. Whether their Lordships wish to see the fair copy of judgment?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 or any order made thereunder ?
5. Whether it is to be circulated to the Civil Judge ?

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Mr Satyanarayan for Mr K S Nanavati, Advocate for the petitioner

Mr J R Nanavaty, Advocate for the respondent

CORAM : N N MATHUR, J.
(November 20, 1995)

ORAL JUDGMENT

This Special Civil Application has been filed challenging the levy of octroi duty on M.S. re-rollable scrap or scrap plates from old ships brought by the petitioner within the octroi limits of the Municipal Corporation at the rate of one paise per rupee ad valorem and with effect from 1986 at the rate of 1.50 per rupee ad valorem under item No.22 of the Schedule (B) to the Bhavnagar Municipality Octroi Bye-laws instead of at the applicable rate of Rs.5.70 per M.T. and Rs.10/- per M.T. from the year 1986 under item No.233 of the said

schedule 'B'.

2. The respondent has raised preliminary objection that the petitioner is member of the Indian Steel Re-rollers' Association (for short, 'the Association') and the said Association has filed a Civil Suit which has been registered as RCS No.506/84. The petitioner is guilty of suppressing the material facts. The second preliminary objection raised is that the petition involves disputed question of facts. Same preliminary objection has been raised in an identical petition being Special Civil Application No.6161/84, which has been disposed of by this Court today.

3. Thus, for the reasons stated and the conclusion arrived at in Special Civil Application No.6161/84 decided today i.e. on 20.11.1995, this Application is rejected.

Rule discharged. There shall be no order as to costs.

The learned Advocate for the petitioner prays that the interim relief granted by this Court vide order dated 7.4.1987 may be continued for a further period of four weeks. The interim relief shall further continue for a period of eight weeks subject to the condition that the petitioner deposits the entire amount due within a period of four weeks.

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